

**From:** [Fugh, Justina](#)  
**To:** [Garcia, Lisa](#)  
**Cc:** [Griffo, Shannon](#); [Gonzalez, Eduardo](#)  
**Subject:** impartiality determination for you  
**Date:** Thursday, December 16, 2021 3:17:53 PM

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Hi Lisa,

This note confirms that I have authorized you to participate in specific party matters that involve the City of New York. Although your spouse is currently employed by the City of New York, you have indicated that he does not work on any environmental issues or matters that would come before the Agency. Pursuant to the financial conflict of interest statute, 18 U.S.C. § 208, you cannot participate personally and substantially in any particular matter that will have a direct and predictable effect on your imputed interest, which is your spouse's employer. That said, we analyze conflicts arising out of spousal employment a little differently. We consider whether what you will be working on as Regional Administrator will impact the City's ability and willingness to continue to pay your spouse's compensation, which is unlikely to occur. Consequently, I conclude that 18 U.S.C. § 208 will not prohibit you from carrying out your official EPA duties that relate to the City of New York.

What remains is an impartiality concern under the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, specifically Subpart E. You have a "covered relationship" with your spouse's current employer, the City of New York, which means that you cannot participate in any specific party matter in which the City of New York is a party or represents a party if the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality. See 5 C.F.R. § 2635.502(a). That said, the ethics regulations permit federal employees to participate in matters that might raise impartiality concerns when the interest of the federal government in your participation outweighs concern over the questioning of the "integrity of the agency's programs and operations." 5 C.F.R. § 2635.502(d).

Because your spouse does not work on any environmental issues at all, neither he nor his municipal office will come before the Agency. I have reviewed the impartiality factors set forth under the regulations and determined that the interest of the United States Government outweigh any concerns about your impartiality. This note formally confirms that I have authorized you to participate in particular matters in which the City of New York is a party

If you have any questions regarding this determination, or if a situation arises in which you need advice or clarification, please feel free to contact OGC/Ethics or your own regional ethics counsel. Happy holidays!

Justina

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